IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Crl.MC.No. 2156 of 2007()

CRIME NO.237/04 IN CC.288/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, KANJIRAPPALLY

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PETITIONER:

P.A.MOHAMMED SHAHEER,
AGED 49,S/O.ABDUL HAMMED,
UDUPARAMBIL,ERATTUPETTA.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, REPRESENTING SUB INSPECTOR
MUNDAKAYAM POLICE STATION.

2. SOORAJ.R.,S/O.M.K.RAJU,
LAKSHMI NIVAS, EDAKUNNAM,
MUNDAKAYAM.

R1 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2156 of 2007

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Dated this the 5th day of July, 2007

O R D E R

The petitioner is the first accused in a prosecution under Section 420 I.P.C. The crux of the allegations against him is that he sold an item of property to the defacto complainant fraudulently suppressing the encumbrance on that property which he had created by pledging the same to the K.F.C. The defacto complainant filed a private complaint. The same was referred to the police. After investigation, final report has been filed. Cognizance has been taken by the learned Magistrate. It is at that stage that the petitioner has come to this Court with the present prayer for quashing of proceedings.

2. The final report has not been produced. I must alertly remind myself of the nature, quality and contours of jurisdiction which I am called upon to invoke and exercise. That is an extra ordinary inherent jurisdiction available under Section 482 Cr.P.C. Such jurisdiction is to be invoked only sparingly and in exceptional cases, that too, only in aid of justice. The mere fact that the accused person may be entitled for discharge at a later stage of the trial is no

reason for this court to invoke the powers under Section 482 Cr.P.C. The final report having not been filed before this Court, it is not possible to venture an opinion on the acceptability of the final report. Suffice it to say that it is for the petitioner to appear before the learned Magistrate and raise appropriate contentions for discharge at the stage of S.239/240 Cr.P.C. The petitioner makes a further submission that the dispute with the defacto complainant has been settled also. The offence alleged is compoundable, it is submitted. If that be so, it is for the petitioner to appear before the learned Magistrate and either report composition or claim discharge at the stage of S.239 Cr.P.C. At any rate, I am not satisfied that the powers under Section 482 Cr.P.C. can or need be invoked in this case. The learned Magistrate shall pass appropriate orders.

3. This Crl.M.C. is accordingly dismissed with the above observations.

(R. BASANT)
Judge

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